

## Premiums Not Subject To The Insurance Premiums Tax

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**PURPOSE:** The purpose of this Policy Statement is to provide information about certain insurance premiums that are not subject to Connecticut insurance premium tax imposed under Conn. Gen. Stat. §12-202 or §12-210 due to preemption by federal law.

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**EFFECTIVE DATE:** Effective as noted below.

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**STATUTORY AUTHORITY:** Conn. Gen. Stat. §12-202 or §12-210.

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**BACKGROUND:** Conn. Gen. Stat. §12-202 imposes a tax on the total net direct premiums received by a domestic insurance company during the calendar year from policies written on property or risks located or resident in Connecticut. A domestic insurance company is an insurance company that is chartered by or organized or constituted within or under the laws of the State of Connecticut. (Conn. Gen. Stat. §12-201(5)). Conn. Gen. Stat. §12-210(b) imposes a tax on all net direct premiums received by a foreign insurance company during the calendar year from policies written on property or risks located or resident in Connecticut, other than premiums for ocean marine insurance. A foreign insurance company is an insurance company that is incorporated by or organized under the laws of any other state or foreign government.

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**CONGRESSIONAL PREEMPTION:** Congress has preempted state taxes on or with respect to premiums paid under certain insurance policies involving the United States Government, its employees, or current or former members of the United States Armed Forces.

*Federal Employees Group Life Insurance (FEGLI) Program:* In the Omnibus Reconciliation Act of 1980, Pub. L. No. 96-499, §405, 94 Stat. 2599, 2606-2607,

Congress preempted state taxes on or with respect to premiums paid under a group life and accidental death and dismemberment insurance policy purchased by the United States Office of Personnel Management pursuant to 5 U.S.C. §8709. The premiums are paid from moneys deposited into the Employees' Life Insurance Fund. Amounts withheld from United States Government employees under 5 U.S.C. §8707 and sums contributed from appropriations and funds under 5 U.S.C. §8708 are deposited in the Treasury of the United States to the credit of the Employees' Life Insurance Fund. (5 U.S.C. §8714(a)).

The provision preempting state taxes on or with respect to such premiums is codified at 5 U.S.C. §8714(c) and applies with respect to premiums paid on or after December 5, 1980.

*Servicemembers' Group Life Insurance (SGLI) Program and Veterans' Group Life Insurance (VGLI) Program:* In the Veterans' Benefits and Services Act of 1988, Pub. L. No. 100-322, §332(a), 102 Stat. 487, 537, Congress preempted state taxes on or with respect to premiums paid under a group life insurance policy purchased by the United States Secretary of Veterans Affairs pursuant to 38 U.S.C. §1966. The premiums are paid from moneys deposited into a revolving fund established in the Treasury of the United States. Amounts withheld or collected from members of the Armed Forces or from veterans and sums contributed from appropriations are deposited into the revolving fund. (38 U.S.C. §1969(d)). The provision preempting state taxes on or with respect to premiums is codified at 38 U.S.C. §1969(f) and applies with respect to premiums paid for periods beginning after June 30, 1988.

*Federal Employees Health Benefits Act (FEHBA) Program:* In the Omnibus Reconciliation Act of 1990, Pub. L. No. 101-508, §7002(c), 104 Stat. 1388, 1388-330, Congress preempted state taxes "imposed, directly or indirectly, on a carrier or an underwriting or plan administration subcontractor of an approved

health benefits plan [which provides, pays for, or reimburses the cost of health services for qualified enrollees] with respect to any payment made from the [Employees Health Benefits] Fund.” (Qualified enrollees are United States Government employees, retirees, certain former employees and eligible members of their families.) The provision preempting state taxes with respect to any payment made from the Employees Health Benefits Fund is codified at 5 U.S.C. §8909(f) and applies with respect to contract years beginning on or after January 1, 1991.

Congress used the phrase “any payment made from the Fund” rather than “premiums” in 5 U.S.C. §8909(f)(1), because FEHBA carriers provide health benefits “in consideration of premiums or other periodic charges” (5 U.S.C. §8901(7)) and do not provide health benefits to enrollees exclusively through the mechanism of insurance. The premiums or other periodic charges are paid from moneys deposited into the Employees Health Benefits Fund established in the Treasury of the United States. Amounts withheld or collected from enrollees and sums contributed from appropriations are deposited into the Employees Health Benefits Fund which is administered by the United States Office of Personnel Management. (5 U.S.C. §8909(a)).

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**EFFECT ON DOMESTIC AND FOREIGN INSURANCE COMPANIES:** If a domestic or foreign insurance company receives insurance premiums under:

- a group life and accidental death and dismemberment insurance policy purchased by the United States Office of Personnel Management pursuant to 5 U.S.C. §8709, or
- a group life insurance policy purchased by the United States Secretary of Veterans Affairs pursuant to 38 U.S.C. §1966, or
- a group health insurance policy purchased by the United States Office of Personnel Management pursuant to 5 U.S.C. §8902,

the net direct premiums received by the insurance company under such a policy or policies are not subject to the Connecticut insurance premiums tax under Conn. Gen. Stat. §12-202 or §12-210, to the extent those premiums are from policies written on risks resident in Connecticut.

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**EFFECT ON OTHER DOCUMENTS:** None affected.

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**EFFECT OF THIS DOCUMENT:** A Policy Statement is a document that explains in depth a current Department position, policy or practice affecting the tax liability of taxpayers.

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**FOR FURTHER INFORMATION:** Please call the Department of Revenue Services during business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday:

- **1-800-382-9463** (toll-free within Connecticut), or
- **860-297-5962** (from anywhere).

**TTY, TDD, and Text Telephone users only** may transmit inquiries 24 hours a day by calling 860-297-4911.

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**FORMS AND PUBLICATIONS:** Forms and publications are available all day, seven days a week:

- **Internet:** preview and download forms and publications from the DRS Web site: **[www.drs.state.ct.us](http://www.drs.state.ct.us)**
- **DRS TAX-FAX:** call **860-297-5698** from the handset attached to your fax machine and select from the menu
- **Telephone:** Call **860-297-4753** (from anywhere), or **1-800-382-9463** (toll-free within Connecticut) and select **Option 2** from a touch-tone phone